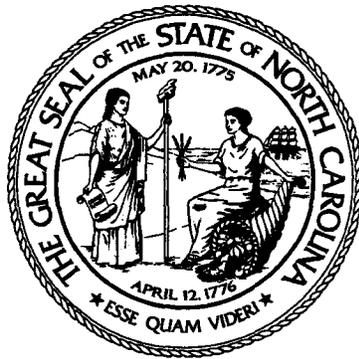


LEGISLATIVE RESEARCH COMMISSION

TRANSPORTATION FINANCE COMMITTEE



REPORT TO THE
2000 SESSION OF THE
1999 GENERAL ASSEMBLY
OF NORTH CAROLINA

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH, NC 27601

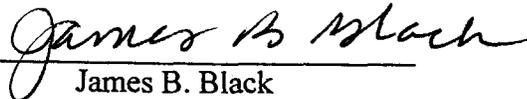


May 4, 2000

TO THE MEMBERS OF THE 1999 GENERAL ASSEMBLY (REGULAR SESSION 2000):

The Legislative Research Commission herewith submits to you for your consideration its 2000 interim report on transportation finance. The report was prepared by the Legislative Research Commission's Committee on Transportation Finance pursuant to G.S. 120-30.17(1).

Respectfully submitted,



James B. Black
Speaker of the House



Marc Basnight
President Pro Tempore

Cochairs
Legislative Research Commission

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH, NC 27601



April 27, 2000

TO THE MEMBERS OF THE LEGISLATIVE RESEARCH COMMISSION:

Attached for your consideration is the report to the 1999 General Assembly (Regular Session 2000) on transportation finance. This report was prepared by the Legislative Research Commission's Committee on Transportation Finance pursuant to G.S. 120-30.17(1).

Respectfully submitted,

Handwritten signature of Senator Wib Gulley in cursive script.

Senator Wib Gulley

Handwritten signature of Representative Nelson Cole in cursive script.

Representative Nelson Cole

Cochairs

TRANSPORTATION FINANCE COMMITTEE



1999 - 2000

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

President Pro Tempore of the Senate
Marc Basnight, Cochair

Senator Austin M. Allran
Senator Linda D. Garrou
Senator Jeanne H. Lucas
Senator R.L. "Bob" Martin
Senator Ed N. Warren

Speaker of the House of Representatives
James B. Black, Cochair

Rep. James W. Crawford, Jr.
Rep. Beverly M. Earle
Rep. Verla C. Insko
Rep. William L. Wainwright
Rep. Steve W. Wood



PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission, prompted by actions during the 1998 Session and 1999 Sessions, has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of transportation finance was originally authorized by Section 27.15(c) of Chapter 212 of the 1997 Session Laws (Regular Session, 1998) and by Section 27.2(d) of Chapter 237 of the 1999 Session Laws (Regular Session, 1999) as an independent study commission called the Blue Ribbon Transportation Finance Study Commission. This

Commission was never appointed; therefore, in the fall of 1999, the Legislative Research Commission created the Transportation Finance Committee to study the issues that the Blue Ribbon Transportation Finance Study Commission was authorized to study.

The Legislative Research Commission authorized this study under authority of G.S. 120-30.17(1). The Committee was chaired by Senator Wib Gulley and Representative Nelson Cole. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library by the end of the 1999-2000 biennium.

COMMITTEE PROCEEDINGS

Note: the following is a brief summary of the Committee's proceedings.

Detailed minutes of each Committee meeting are available in the Legislative Library.

Meeting on March 9, 2000

The first meeting of the LRC Transportation Finance Committee was held March 9, 2000 at 9:30 a.m. in Room 1124 of the Legislative Building. Senator Wib Gulley presided. Giles Perry, Staff Attorney, reviewed the Charge to the Committee and the enabling legislation and presented the budget. Secretary David McCoy of the North Carolina Department of Transportation presented an overview of transportation needs. Mr. Wayne Stallings, Chief Financial Officer of DOT gave an overview of the conditions of transportation finances. Mayor Nick Tennyson of Durham next spoke to the Committee about urban transportation needs. Mr. Ron Beane, Caldwell County Commissioner, gave a presentation on rural transportation needs. Mr. Jim Roberson, President of the Research Triangle Foundation, discussed transportation needs of Research Triangle Park. Ms. Janet D'Ignazio, Deputy Secretary of DOT, reviewed changes in the TIP as a result of the audit by KPMG-Peat Marwick. Mr. Don Goins, Chief Engineer for DOT, gave a report on secondary roads and discretionary funding. Ms. D'Ignazio next discussed the issue of Best Practices.

Meeting on March 30, 2000

The second meeting of the Committee was held on Thursday, March 30, 2000 at 9:30 a.m. in Room 1124 of the Legislative Building. Professor Michael Meyer, Chair of the School of Civil and Environmental Engineering at Georgia Institute of Technology, presented a report on best practices for transportation needs assessment, discussing practices in Pennsylvania, Minnesota, Wisconsin, and Washington. Mr. Calvin Leggett, Director of Planning and Programming for DOT, discussed draft legislation to allow private toll roads. He then discussed public toll roads. Mr. David Allsbrook, DOT's Deputy Chief Engineer – Operations, discussed maintenance needs and funding.

Meeting on April 27, 2000

The third meeting of the Committee was held on Thursday, April 27, 2000 at 9:30 a.m. in Room 1027 of the Legislative Building. The topic for the first part of the meeting was Public Transportation and Rail Needs. The Committee heard presentations by Congressman David Price, Mr. Sanford Cross, Director of Public Transportation at DOT, representatives of the North Carolina Coalition for Public Transportation and the Public Transportation Association, Mr. Jim Ritchey, General Manager of the Triangle Transit Authority, Mr. Ron Tober, Director of the Charlotte Metropolitan Transit Commission, and a representative from Triad Transit.

Colonel David Richards, Director of the DMV Enforcement Section, addressed the Committee on the use of transponders in reporting and revenue compliance. Next, Mr. Dempsey Benton, Raleigh City Manager, discussed municipal participation in state highway projects. Mr. Gorman Gilbert, Director of the Institute for Transportation Research and Education at NCSU, discussed potential toll road projects. Mr. Jim Allen, President of United Toll Systems, discussed private toll roads. Mr. Giles Perry, Staff Attorney, discussed toll road legislation.

The Committee also discussed issues related to DOT operations and uses of funds and questions for future meetings.

The Committee made three recommendations, included elsewhere in this report.

FINDINGS AND RECOMMENDATIONS

The Committee recommends the following:

**LEGISLATIVE PROPOSAL I – A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL
PARTICIPATION IN STATE ROAD CONSTRUCTION.**

**LEGISLATIVE PROPOSAL II – A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY
FUNDED AND THREE PUBLICLY FUNDED TOLL ROAD OR BRIDGE PROJECTS.**

RECOMMENDATION III

**A RECOMMENDATION CONCERNING USE OF TRANSPONDER TECHNOLOGY
TO INCREASE MOTOR FUEL TAX COLLECTION AND TO ENHANCE ENFORCEMENT
OF MOTOR CARRIER RELATED LAWS.**



APPENDIX A

CHAPTER 237

1999 Session Laws (1999 Session)

AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

...

Requested by: Representatives Crawford, Cole, Easterling, Hardaway, Redwine, Senators Gulley, Plyler, Perdue, Odom

BLUE RIBBON TRANSPORTATION FINANCE STUDY COMMISSION Section 27.2.(a) Commission Established. -- There is established a Blue Ribbon Transportation Finance Study Commission.

Section 27.2.(b) Membership. -- The Commission shall be composed of 15 members as follows:

- (1) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Four members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) Three members of the public appointed by the Governor, none of whom shall be State officials, and two of whom shall have expertise in transportation matters.
- (4) Two members of the public appointed by the Speaker of the House of Representatives, one of whom shall be a municipal-elected official, and one of whom shall have experience in business and transportation matters.
- (5) Two members of the public appointed by the President Pro Tempore of the Senate, one of whom shall be an elected county official, and one of whom shall have experience in business and transportation matters.

Any persons appointed pursuant to Section 27.15 of S.L. 1998-212 shall continue as members of this Study Commission.

Section 27.2.(c) Secretary of Transportation. -- The Commission shall invite the Secretary of Transportation to attend each meeting of the Commission and encourage his participation in the Commission's deliberations.

Section 27.2.(d) Duties of Commission. -- The Commission shall study the following matters related to transportation finance:

- (1) The Highway Trust Fund Act of 1989. -- The Commission shall review the current law and recommend any revisions that may be necessary, based on the 10-year history of the fund and the current transportation needs of the State.
- (2) Current revenue sources. -- The Commission shall review all current revenue sources that support State transportation programs and recommend changes, additions, or deletions based on projected needs for the next 25 years.
- (3) Transportation system maintenance. -- The Commission shall review current financing of transportation system maintenance and recommend changes to accommodate maintenance of new construction and increased traffic volume.

- (4) Public transportation. -- The Commission shall evaluate funding public transportation with dedicated sources of funds. The Commission's recommendation shall include specific sources and amounts of any dedicated funds, if recommended.
- (5) Highway Fund transfers. -- Transfers from the Highway Fund to other State agencies, including whether or not those funds would more appropriately come from the General Fund.
- (6) Transportation spending. -- Proposals for (i) separate funding allocations for roads that impact large-scale economic development projects, including projects that would create new industries, (ii) separate funding allocations for major highways that impact no fewer than two funding regions, and (iii) methods to accommodate these spending proposals in the equity formula.
- (7) Other transportation financing issues. -- The Commission may study any other transportation finance-related issue approved by the cochairs or recommended by the Secretary of Transportation and approved by the cochairs.

Section 27.2.(e) Vacancies. -- Any vacancy on the Commission shall be filled by the appointing authority.

Section 27.2.(f) Cochairs. -- Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be eight members.

Section 27.2.(g) Expenses of Members. -- Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

Section 27.2.(h) Staff. -- Adequate staff shall be provided to the Commission by the Legislative Services Office.

Section 27.2.(i) Consultants. -- The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

Section 27.2.(j) Meetings During Legislative Session. -- The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

Section 27.2.(k) Meeting Location. -- The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

Section 27.2.(l) Report. -- The Commission shall submit an interim report to the Joint Legislative Transportation Oversight Committee on or before June 1, 2000. The Commission shall submit a final report to the Joint Legislative Transportation Oversight Committee by March 1, 2001. Upon the filing of its final report, the Commission shall terminate.

....

APPENDIX B

MEMBERSHIP OF THE LRC COMMITTEE ON TRANSPORTATION FINANCE

Pro Tem's Appointments

Sen. Wib Gulley, Cochair
PO Box 3573
Durham, NC 27702
(919) 683-1584

Mr. Jim Harrington
1042 Washington Street
Raleigh, NC 27606

Mr. William Hawkins
PO Box 92
Pisgah Forest, NC 28768

Sen. David Hoyle
PO Box 2494
Gastonia, NC 28053
(704) 867-0822

Mr. Samuel Hunt
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Burlington, NC 27215

Sen. John Kerr, III
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Goldsboro, NC 27533
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Mr. George Little, Jr.
Kilpatrick Stockton, LLP
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Winston-Salem, NC 27101

Sen. Beverly Perdue
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Speaker's Appointments

Rep. Nelson Cole, Cochair
PO Box 2309
Reidsville, NC 27320
(336) 342-4223

Mr. Robert Barnhill, Jr.
2311 North Main St.
Tarboro, NC 27886

Dr. Delilah Blanks
Bladen County Commissioner
1369 Bowen Blanks Road
Riegelwood, NC 28456

Mr. Thomas W. Bradshaw, Jr.
7416 Grist Mill Rd.
Raleigh, NC 27615-5409

The Honorable Cherri Cheek
Mayor, City of Sunset Beach
700 Sunset Blvd., North
Sunset Beach, NC 28468

Rep. James W. Crawford, Jr.
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Oxford, NC 27565
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Rep. Beverly M. Earle
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Charlotte, NC 28202
(704) 333-7180

Rep. Paul Luebke
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Durham, NC 27705
(336) 334-5295

Mr. Charles M. Shelton
4201 Congress Street, Suite 470
Charlotte, NC 28209

Mr. Robert Mattocks
Jenkins Company
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Pollocksville, NC 28573

Staff

Giles Perry
Research Division
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Evan Rodewald
Bob Weiss
Fiscal Research
(919) 733-4910

Clerk

Carol Resar
(919) 715-3036

Proposal I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

D

99-DRW-MPC

THIS IS A DRAFT 27-APR-00 23:27:28

Short Title: Municipal Participation

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION
3 IN ROAD CONSTRUCTION
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 136-66.3 reads as rewritten:
6 § 136-66.3. Municipal participation in improvements to the State
7 highway system.
8 (a) ~~Except as otherwise authorized by this Article, no~~
9 ~~municipality shall participate in the cost of any State highway~~
10 ~~system improvement project approved by the Board of~~
11 ~~Transportation under G.S. 143B-350(f)(4). No municipality shall~~
12 ~~be required to contribute to the right-of-way and construction~~
13 ~~costs of any State highway system improvement approved by the~~
14 ~~Board of Transportation under G.S. 143B-350(f)(4), nor shall the~~
15 ~~Department of Transportation accept any participation, directly~~
16 ~~or indirectly, from a municipality except as authorized by this~~
17 ~~Article.~~
18 - (b) ~~The restrictions imposed by this section on participation~~
19 ~~by municipalities in the implementation of improvements on the~~
20 ~~State highway system shall not apply to those improvements~~

1 ~~approved by the Board of Transportation which are financed by~~
2 ~~funds allocated by the General Assembly for the "Small Urban~~
3 ~~Construction Program".~~ The municipalities When any one or more
4 street construction or highway improvement projects are proposed
5 on the State highway system in and around a municipality, the
6 Department of Transportation and the municipal governing body
7 shall reach agreement on their respective responsibilities for
8 such project or projects. In reaching such agreement, the
9 Department of Transportation and the municipality shall take in
10 consideration:

- 11 (1) The relative importance of the project to a
12 coordinated statewide system of highways.
13 (2) The relative benefit of the project to the
14 municipality.
15 (3) The degree to which the cost of acquisition of
16 rights-of-way can be reduced or minimized through
17 action by the municipality and/or the Department of
18 Transportation to acquire all or part of the
19 rights-of-way for proposed projects well in advance
20 of construction of such projects. Municipalities
21 may, but shall not be required to, participate in
22 the right-of-way and construction cost of "Small
23 Urban Construction Program" State highway system
24 improvements.

25 (c) ~~A municipality is authorized and empowered to acquire land~~
26 ~~by dedication and acceptance, purchase, or eminent domain, and~~
27 ~~make improvements to portions of the State highway system lying~~
28 ~~within or outside the municipal corporate limits utilizing local~~
29 ~~funds that have been authorized for that purpose by a vote of the~~
30 ~~citizens of the municipality. The governing body of the~~
31 ~~municipality may call a special referendum at any time to allow~~
32 ~~this use of funds.~~ purpose. ~~The total cost of the improvements~~
33 ~~authorized by this subsection shall be the responsibility of the~~
34 ~~municipality and shall not be participated in by the Department~~
35 ~~of Transportation, nor shall the construction of improvements be~~
36 ~~a consideration for any other project by the Department of~~
37 ~~Transportation. All improvements to the State highway system~~
38 ~~shall be done in accordance with the specifications and~~
39 ~~requirements of the Department of Transportation and shall be set~~
40 ~~forth in an agreement entered into between the municipality and~~

1 the Department. The Board of Transportation shall not give
2 consideration to or credit for such locally financed improvements
3 in the Transportation Improvement Program under G.S. 143B-
4 350(f)(4).

5 (d) When in the review and approval by a municipality of plans
6 for the development of property abutting the State highway system
7 it is determined by the municipality that improvements to the
8 State highway system are necessary to provide for the safe and
9 orderly movement of traffic, the municipality is authorized to
10 construct, or have constructed, said improvements to the State
11 highway system in vicinity of the development. For purposes of
12 this section, improvements include but are not limited to
13 additional travel lanes, turn lanes, curb and gutter, and
14 drainage facilities. All improvements to the State highway
15 system shall be constructed in accordance with the specifications
16 and requirements of the Department of Transportation and be
17 approved by the Department of Transportation.

18 (e) A municipality may pursuant to an agreement with the
19 Department of Transportation reimburse the Department of
20 Transportation for the cost of all improvements, including
21 additional right-of-way, for a street or highway improvement
22 project approved by the Board of Transportation under G.S.
23 ~~143B-350(f)(4) that are in addition to those improvements that~~
24 ~~the Department of Transportation would normally include in the~~
25 ~~project.~~ G.S. 143B-350(f)(4). Funds expended by a municipality
26 pursuant to an agreement with the Department of Transportation
27 shall not be considered in calculating distribution of
28 construction funds under G.S. 136-17.2A.

29 (f) Municipalities having a population of less than 10,000
30 according to the most recent annual estimates of population as
31 certified to the Secretary of Revenue by the State Budget Officer
32 shall not participate in the right-of-way and construction costs
33 of any State highway system improvement project approved by the
34 Board of Transportation under G.S. 143B-350(f)(4).

35 ~~Municipalities having a population of 10,000 or more according~~
36 ~~to the most recent annual estimates of population as certified to~~
37 ~~the Secretary of Revenue by the State Budget Officer may, but~~
38 ~~shall not be required by the Department or Board of~~
39 ~~Transportation, participate up to a maximum percentage as shown~~
40 ~~below in the cost of rights-of-way of the portion of any~~

1 ~~transportation improvement project approved by the Board of~~
 2 ~~Transportation under G.S. 143B-350(f)(4) that is located within~~
 3 ~~the municipal corporate limits:~~

4 5 Municipal 6 Population	Maximum Participation In Right-of-Way Costs
8 10,000 - 25,000	5%
9 25,001 - 50,000	10%
10 50,001 - 100,000	15%
11 over 100,000	25%

12
 13 Any participation shall be set forth in an agreement between
 14 the municipality and the Department of Transportation. Upon
 15 request of the municipality, the Department of Transportation
 16 shall allow the municipality a period of not less than three
 17 years from the date construction of the project is initiated to
 18 reimburse the Department their agreed upon share of the costs of
 19 ~~rights-of-way~~ necessary for the project. The Department of
 20 Transportation shall not charge a municipality any interest on
 21 ~~its agreed upon share of rights-of-way costs.~~ during the initial
 22 three years. The ~~Secretary~~ Department shall report in writing,
 23 on a monthly basis, to the Joint Legislative Commission on
 24 Governmental Operations on all agreements entered into between
 25 municipalities and the Department of Transportation. The report
 26 shall state in summary form the contents of such agreements.

27 (g) In the acquisition of rights-of-way for any State highway
 28 system street or highway in or around a municipality, the
 29 municipality shall be vested with the same authority to acquire
 30 such rights-of-way as is granted to the Department of
 31 Transportation in this Chapter. In the acquisition of such
 32 rights-of-way, municipalities may use the procedures provided in
 33 Article 9 of this Chapter, and wherever the words "Department of
 34 Transportation" appear in Article 9 they shall be deemed to
 35 include "municipality" or "municipal governing body," and
 36 wherever the words "Administrator," "Administrator of Highways,"
 37 "Administrator of the Department of Transportation," or "Chairman
 38 of the Department of Transportation" appear in Article 9 they
 39 shall be deemed to include "municipal clerk". It is the
 40 intention of this subsection that the powers herein granted to

1 municipalities for the purpose of acquiring rights-of-way shall
2 be in addition to and supplementary to those powers granted in
3 any local act or in any other general statute, and in any case in
4 which the provisions of this subsection or Article 9 of this
5 Chapter are in conflict with the provisions of any local act or
6 any other provision of any general statute, then the governing
7 body of the municipality may in its discretion proceed in
8 accordance with the provisions of such local act or other general
9 statute, or, as an alternative method of procedure, in accordance
10 with the provisions of this subsection and Article 9 of this
11 Chapter.

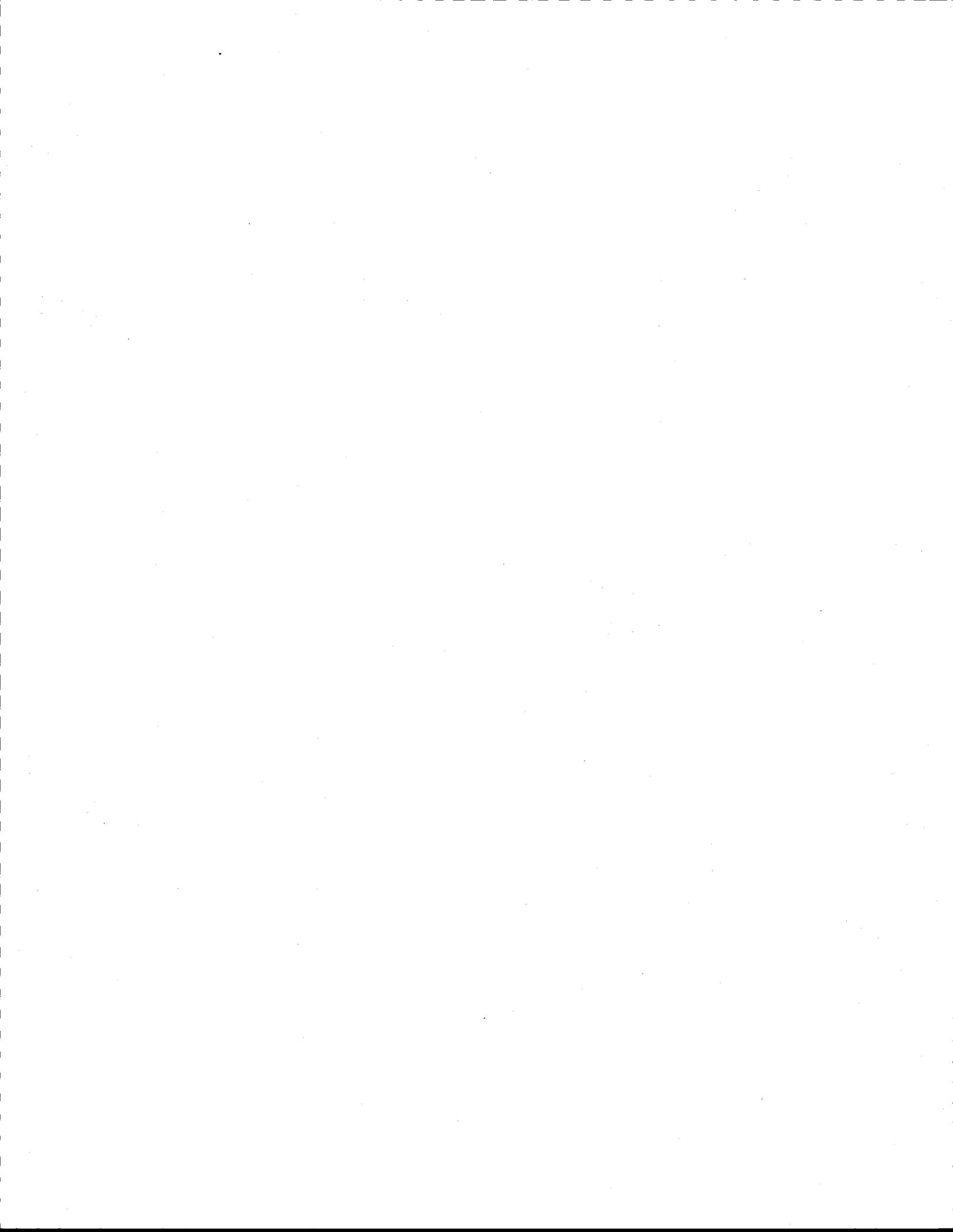
12 (h) In the absence of an agreement, the Department of
13 Transportation shall retain authority to pay the full cost of
14 acquiring rights-of-way where the proposed project is deemed
15 important to a coordinated State highway system.

16 (i) Either the municipality or the Department of
17 Transportation may at any time propose changes in the agreement
18 setting forth their respective responsibilities ~~for right-of-way~~
19 ~~acquisition~~ by giving notice to the other party, but no change
20 shall be effective until it is adopted by both the municipal
21 governing body and the Department of Transportation.

22 (j) Any municipality that agrees to contribute any part of the
23 cost of acquiring rights-of-way for any State highway system
24 street or highway shall be a proper party in any proceeding in
25 court relating to the acquisition of such rights-of-way.

26 Section 2. This act becomes effective July 1, 2000.

27



Proposal II

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

D

99-DRW-TLL

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Toll Roads.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED
3 AND THREE PUBLICALLY FUNDED TOLL ROAD OR BRIDGE PROJECTS.
4 The General Assembly of North Carolina enacts:
5 Section 1. Chapter 136 of the General Statutes is
6 amended by adding a new Article 6G to read:
7 "Article 6G.
8 Private and Public Pilot Toll Projects.
9
10 §136-89.168. Private Toll Projects.
11 (a) Authority to License.-- The Department of Transportation is
12 authorized to issue up to three license to persons to finance,
13 design, construct, maintain, improve, own, or operate, or any
14 combination thereof, a transportation project within the State of
15 North Carolina.
16 (b) Requirement for finding of need.-- Prior to the issuance of
17 any license under this section, the Department shall make a
18 written determination that the proposed project is necessary and
19 in the public interest, and that it is unlikely to be constructed
20 in the foreseeable future as a non-toll project.

1 (c) Submission of financial data.-- A person applying for a
2 license to construct a project under this section shall submit
3 detailed financial data to the Department concerning the ability
4 of applicant to finance the proposed project, and the projected
5 time for the licensee to recover the cost of the licensee's
6 investment and to make a reasonable rate of return. The
7 Department shall independently analyze the data submitted for
8 each project proposal, and determine the appropriate license
9 period

10 (d) License Period.-- A license issued under this section shall
11 not exceed 30 years in length

12 (e) State ownership at end of license period.-- A license
13 issued pursuant to this section shall include an agreement from
14 the applicant to transfer all property rights to the project to
15 the State at the end of the license period.

16 (f) State use for other purposes.-- A license issued pursuant
17 to this section shall authorize the State or its designee to
18 enter and utilize the project right-of-way for other
19 transportation or utility-related purposes, as long as those
20 purposes do not interfere with the use by the licensee.

21 (g) Terms of License.-- Additional terms and conditions of any
22 license issued pursuant to this section shall be within the
23 discretion of the Department of Transportation, and may include,
24 in addition to any other requirements:

25 (1) Provisions establishing minimum design and
26 construction standards for the project;

27 (2) Provisions establishing minimum maintenance
28 standards for the project;

29 (3) Provisions requiring that necessary traffic signs
30 and other traffic control devices be erected and
31 maintained in conformity with the Manual on Uniform
32 Traffic Control Devices as defined in G.S. § 136-
33 30(d).

34 (4) Provisions establishing the rights and duties of
35 the parties regarding infrastructure improvements
36 and connections between the project and the State
37 Highway System;

38 (5) Provisions regarding any type of access control
39 which may be required for the project;

- 1 (6) Provisions establishing the relative
2 responsibilities of the licensee and the Department
3 of Transportation to keep the completed project
4 open and accessible to the public;
- 5 (7) Provisions requiring that the State of North
6 Carolina, its agencies, officials and employees be
7 indemnified and held harmless by the licensee for
8 any liability incurred on the project in connection
9 with project construction, maintenance or
10 operation; and,
- 11 (8) Provisions concerning the circumstances under which
12 the Department will exercise its power of eminent
13 domain.
- 14 (9) Provisions concerning location of the project.
- 15 (h) Acquisition of project property.-- A person licensed to
16 construct a project under this section shall, to the extent
17 possible, acquire all right of way interests required for the
18 project through private negotiation. The Department is
19 authorized to exercise its power of eminent domain to acquire
20 property rights necessary for construction and maintenance of the
21 project only as to those property interests that cannot be
22 acquired by the licensee at a reasonable price through private
23 negotiation. A licensee requesting that the Department exercise
24 its power of eminent domain shall be required to reimburse the
25 Department in the full amount of its costs incurred in acquiring
26 the necessary property interests, including any negotiated
27 settlement or jury verdict, and any attorney fees that may be
28 awarded. The acquisition of property interests necessary for
29 inclusion in a project licensed under this section is hereby
30 declared to be for a public transportation purpose.
- 31 (i) Transfer of Department property to licensee.--
32 Notwithstanding the provisions of G.S. § 136-19, should the
33 Department determine that a licensed project requires property
34 interests held by the Department, such interests as the
35 Department determines to be necessary may be conveyed to the
36 licensee for fair market value.
- 37 (j) Applicability of other laws.-- For the purpose of entering
38 into contractual licensing agreements under this section the
39 Department of Transportation is exempted from any provision of
40 the General Statutes that conflicts with the purposes of this

1 section, specifically including G.S. § 136-28.1 and G.S. § 143-
2 52. A project licensed under this section shall not be included
3 in the distribution formula under G.S. § 136-17.2A but shall
4 require approval of the Board of Transportation under G.S. §
5 143B-350(f)(4).

6 (k) Applicability of motor vehicle laws.-- Any project licensed
7 by the Department of Transportation under the authority granted
8 in this section shall be considered a 'highway' as defined in
9 G.S. § 20-4.01(13) and a 'public vehicular area' as defined in
10 G.S. § 20-4.01(32). The State Highway Patrol and the Division of
11 Motor Vehicles shall have the same powers and duties on such
12 projects as on any other highway or public vehicular area.

13 (l) Resolution of support required.-- The Department shall not
14 license any project under this section prior to receiving a
15 resolution of support for the project approved by the county
16 commissioners of each county in which the project will be
17 located.

18 (m) Exclusive license.-- Upon the issuance of a license by the
19 Department of Transportation, no further license of any type may
20 be required by any state or local government body for the
21 ownership, construction, or operation of the project.

22 (n) Definitions. -- The following definitions shall apply as
23 used in this section:

24 (1) 'Person' shall mean any natural person,
25 partnership, corporation, trust, association, sole
26 proprietorship or any other legal entity other than
27 the state or its agencies, institutions, or
28 political subdivisions.

29 (2) 'Project' shall mean a privately constructed,
30 maintained and operated toll highway, road, bridge
31 or other transportation-related facility.

32 (3) 'License' shall mean a person authorized through a
33 contractual agreement with the Department of
34 Transportation to finance, design, construct,
35 maintain, improve, own, or operate, or any
36 combination thereof, a project.

37 (o) Report.-- The Department shall report to Joint Legislative
38 Transportation Oversight Committee and to the Transportation
39 Appropriations Subcommittee by February 1, 2001, and every year

1 thereafter, on any toll project planning, construction, or
2 operation commenced pursuant to the provisions of this Article.

3

4 §136-89.169. State-owned and operated toll projects.

5 (a) Authority to construct and operate.--- The Department of
6 Transportation is authorized to construct and operate up to three
7 toll transportation projects within the State.

8 (b) Requirement for finding of need.-- Prior to the
9 construction of any project authorized under this section, the
10 Department shall make a written determination that the proposed
11 project is necessary and in the public interest, and that it is
12 unlikely to be constructed in the foreseeable future as a non-
13 toll project.

14 (c) Report.-- The Department shall report to the Joint
15 Legislative Transportation Oversight Committee and to the
16 Transportation Appropriations Subcommittee by February 1, 2001,
17 and every year thereafter, on any toll project planning,
18 construction, or operation commenced pursuant to the provisions
19 of this Article.

20 Section 3. This act is effective when it becomes law
21 and expires July 1, 2003.

RECOMMENADATION III

on use of transponder technology to increase motor fuel tax collection and to enhance enforcement of motor carrier related laws

The Committee finds that transponder technology is a promising tool for increasing the collection of motor fuels tax and for enhancing enforcement of motor carrier related laws within the State.

The Committee recommends that the Commissioner of Motor Vehicles and the Secretary of Revenue convene a joint working group on this issue. The Committee requests that the working group include other interested parties, such as representatives of the trucking industry, in its deliberations. The Committee requests that the working group report to the Legislative Research Commission Transportation Finance Study Committee on or before October 1, 2000 with a detailed plan, including a reasonable time frame and budget for implementing the technology, provision for use of the readers (static and mobile), and any draft legislation needed to require all trucks subject to IRP registration to have conforming transponders.

